

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ROSFEL GARZA, #01181215,

Plaintiff,

v.

ALLEN BARKER, et al.,

Defendants.

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Case No. 6:20-cv-331-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Rosfel Garza, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Before the Court is Plaintiff's motion for a preliminary injunction or temporary restraining order. Docket No. 19. On August 3, 2021, Judge Mitchell issued a Report and Recommendation recommending that the Court deny the motion. Docket No. 27. Plaintiff responded. Docket No. 34.

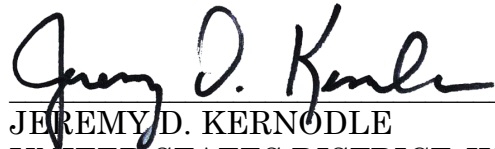
Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other*

*grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections, Plaintiff states that he seeks a preliminary injunction “to cause the Defendant to play [fair] within Plaintiff’s life in TDCJ and the courtroom.” However, a review of Plaintiff’s objections and his underlying motion reveals that—as pointed out in Judge Mitchell’s Report—Plaintiff has not carried his burden of persuasion as to all four elements necessary in order to be granted a preliminary injunction. *See Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 288 (5th Cir. 2012). Accordingly, Plaintiff’s objections must be overruled.

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 27) as the opinion of the District Court and **DENIES** Plaintiff’s motion for a preliminary injunction or temporary restraining order (Docket No. 19).

So **ORDERED** and **SIGNED** this **23rd** day of **August, 2021**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE